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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

740123-4

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on April 10, 2009

Signature

Typed or printed name Stuart J. Friedman

Application Number

10/049,696

Filed

February 15, 2002

First Named Inventor

Olivier Brique

Art Unit

2162

Examiner

Shahid Al Alam

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

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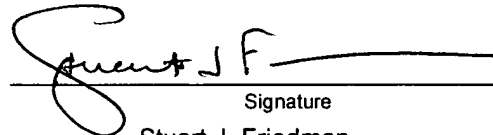
☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 24,312

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____


Signature

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301-829-1003

Telephone number

April 10, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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PATENT
Docket No. 123-4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
Olivier BRIQUE et al) Group Art Unit: 2162
Serial No. 10/049,696) Examiner: Shahid Al Alam
Filed: February 15, 2002)
For: MESSAGES TRANSMISSION)
PROCESS AND SYSTEM FOR DATA)
BASES)

CERTIFICATE OF MAILING OR TRANSMISSION
[37 CFR 1.8(a)]

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Signature: _____

Name: Stuart J. Friedman _____

REASONS IN SUPPORT OF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant seeks review of the final rejection of claims 27, 29-31 and 39 in the above-captioned application. These claims appear at pages 2-3 of the Amendment filed on October 20, 2009. For the following reasons, the rejection of independent claim 27 under 35 USC 103(a) over Pirovano et al in view of Yamagishi must fail because these references fail to provide the necessary teachings or suggestions to support a prima facie rejection under 35 USC 103 and because there is clear error in the Examiner's rejections.

The Examiner's reasons for rejecting claim 27 over Pirovano et al in view of Yamagishi are set forth in the Office Action of January 21, 2009 at pages 5-6 ("Final Office Action").

Among his reasons for rejecting claim 27, the Examiner asserts that Pirovano et al discloses:

--providing identical messages without any database addressing to be unidirectionally transmitted from the managing center wherein each identical message includes controls that include queries for searching useful data present in distributed user database--

In support of this assertion the Examiner relies upon the following disclosure in Pirovano: page 2, lines 1-2 and 47-54; page 9, lines 30-35.

The Examiner concedes at page 5 of the Final Office Action that "Pirovano does not explicitly teach conditional updating of the distributed user database as claimed."

The Examiner cites Yamagishi in an effort to make up for the deficiency in Pirovano et al, stating at page 6 of the Final Office Action that "Yamagishi teaches a server structures at least update report data and transmits the update report data over a unidirectional broadcasting network enabling broadcast and contents of the database are updated with the distributed data and conditional updating of the database (citing Yamagishi at Abstract; column 1, lines 52-62; column 6, lines 59-67; Figure 11; and column 15, lines 19-45).

There is clear error in the Examiner's reading of the cited references and in his application of the combined teachings of these references to the limitations recited in claim 27, all as will be discussed more fully hereinafter.

At the outset it will be helpful to appreciate that in independent claim 27 applicant sets forth a method of conditionally updating a large quantity of network user terminal databases by sending a message from the message center over a unidirectional connection to all of the user databases without any database addressing, i.e., without preselecting certain of the databases to receive and act on the message. This "group" message includes one or more conditional controls, i.e., queries for searching the useful data portion (as contrasted with the system/managing data portion--see pages 2-3 of the above-captioned application) of the distributed user databases. After each individual user database receives the "group" message and executes the queries by searching the useful data present in each user database for predetermined data, the user database is conditionally updated according to the results obtained by the search of the useful data. It is noteworthy that according to the claimed method, the message is sent from the managing center over a unidirectional connection and no return message from the databases

to the managing center regarding the performing of the conditional updating is required. In this way, the same message addressed to all subscribers' databases will have different effects on each database in function of the content of the database and not in function of its unique identifier or other system data. This method allows addressing a great number of databases with a single message transmitted to all databases to cause searching of the useful data in each database and to execute the updating operation only when necessary in function of comparison results between the data of the message and the content of the database.

Turning first to the Pirovano et al reference, the Examiner erred in stating that Pirovano et al provides identical messages "without any database addressing." To the contrary, Pirovano et al teaches the use of addressed messages, stating at pages 2, lines 57 through page 3, line 1 that in achieving selective transmission, "each end-user [is] identified by a different unique identifier." Continuing on page 3, lines 15-23 Pirovano states that a connection between terminals needs a calling-terminal-address and a called-terminal-address constituted by a unique identifier of the called terminal. Again at page 5, lines 32-33, Pirovano et al expressly states that in making the selective connection between terminals the NCR packet carries "the address" of the called terminal. Thus, it will be appreciated that Pirovano et al does not teach providing identical messages without any database addressing, wherein the message is received by all network user databases. The Examiner, in fact, does not disagree, stating at page 2, paragraph 3, lines 7-8 of the office action of February 6, 2007 that "Pirovano et al teaches databases addressing which can include general, random and other form of database addressing." It follows that whatever form of addressing Pirovano et al uses, he does not disclose transmitting identical messages without any database addressing as required by claim 27.

The Examiner concedes that Pirovano et al does not teach conditional updating of the databases and cites Yamagishi for its disclosure of conditional updating. However, Yamagishi does not perform conditional updating by a method or system which is totally unidirectional as is required by claim 27. Rather, Yamagishi utilizes return messages from the databases to the managing center and, thus, his attainment of conditional updating is bi-directional. For example, at column 13, lines 48-53, Yamagishi states "[w]hen update report-format data is received and selected at the reception terminal 5, a request for corresponding update data is, as mentioned

above, issued to the server 2 over the communication network 6. The server 2 transmits the requested update data to the reception terminal 5 over the communication network 6." It can be seen that the Yamagishi method requires a comparison at the terminal between received update report-format data and system data of the database, such as version information, data format, addresses, etc. (i.e., system/management data rather than useful data, as defined in the above-captioned application at pages 2-3). This is confirmed in Yamagishi at Figure 11 which shows that the comparison tests made on the original incoming message from the server, prior to updating, are made on system data related to the description, structure, or version of the data in the database and not on useful data as is required by claim 27. Then, according to the result of the comparison, the receiver sends a request for update data to the server via network 6 (i.e., a return message). No update is made on the basis of the useful data in the database, as is required by claim 27. Rather, the Yamagishi method requires a return message from the receiver to the server in order to receive update data, a step which is prohibited according to the terms of claim 27 (which recites a method wherein there are no return messages from the databases to the managing center regarding the performing of conditional updating).

A serious drawback of the Yamagishi method is the bi-directional data exchange over the networks in both directions, initially from the server to the databases and then the return message from the databases to the server. The method of claim 27 aims to minimize the data stream by sending an identical message to each receiver in a unidirectional way (i.e., server to receiver only). The updating is then carried out individually at the receiver side according to the useful data in the receiver's database. Such local database updating does not need any further return message request to the server via a return channel. The Examiner, at page 4, line 5 of the Final Office Action, is dismissive of this distinction stating that "one of ordinary skill in the art should know that unidirectional is a subset of bi-directional." However, the Examiner clearly misses the point. He would have us ignore this distinction on the basis that every bi-directional communication includes a unidirectional communication. But such a shorthand is clearly misleading. The prior art knows only one method of updating the databases, and that is via a bi-directional exchange from the server to the receiver, then, from the receiver to the server, followed by a provision of update data from the server to the receiver. Applicant has discovered

that these bi-directional communications are not necessary and that the same result can be achieved by a single unidirectional communication. According to applicant's claimed method, two steps of Yamagishi's three step exchange between server and receiver are eliminated. Clearly, this elimination of communications is an advance in the art which is not suggested by Yamagishi or contemplated by the prior art. It surely cannot be dismissed as being a subset of bi-directional communications. Indeed, the absence of a return channel from receiver to server implies extended specific features and instructions, respectively, in the receiver and in the messages for updating the databases. In other words, transmission methods working on a bi-directional basis cannot be simply used unidirectionally without any changes in the transmitted data and in the conditional controls in the message sent to all user terminal databases.

It will be appreciated from a careful reading of the cited references, contrary to the Examiner's assertions, that there is no disclosure or suggestion in Pirovano et al or Yamagishi, or in their purported combination, of the claim 27 steps of:

--providing identical messages without any database addressing transmitted from the managing center--;

--providing identical messages which include queries for searching useful data present in distributed user databases--;

--transmitting the identical messages from the managing center over a unidirectional connection to a plurality of distributed user databases--;

--conditionally updating each distributed user terminal database separately according to the results of the searching of the useful data present in each distributed user database--; and

--accomplishing the conditional updating without a return message from the databases to the managing center regarding the performing of the conditional updating.--

Respectfully, the Examiner misreads Pirovano et al and Yamagishi and misapplies them to independent claim 27. Accordingly, the rejection of claim 27 as unpatentable over Pirovano et al in view of Yamagishi is in error and should be reconsidered and withdrawn. All of remaining claims 29-31 and 39 are dependent, directly or indirectly, from independent claim 27 and are likewise allowable because claim 27 is allowable. Accordingly, the allowance of claims 27, 29-31 and 39 or the reopening of prosecution is, therefore, respectfully requested.